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EXAMINER				
MAL, KEVIN S				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeciipaw.com

Office Action Summary

Application No.

10/798,922

Applicant(s)

MCKAY, MICHAEL S.

Examiner

KEVIN S. MAI

Art Unit

4121

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1, 8, 9, 11, 17 and 23 have been amended.

Claim 7 has been cancelled.

Claims 1 – 6, and 8 – 23 are pending.
2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Therefore, applicant's arguments with respect to claims 1 – 6 and 8 – 23 have been considered but are moot in view of the new ground(s) of rejection.
3. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Response to Arguments

4. The rejections of claims 17 – 22 under 3 U.S.C. 101 are withdrawn. Applicant has amended the specification to overcome the rejection and the claims now recite statutory subject matter.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 6 and 8 – 23 are rejected under 35 U.S.C. 102(c) as being anticipated by U.S. Pub. No. 2005/0080848 A1 to Shah (hereinafter “Shah”).

As to Claims 1, 11, and 17, Shah teaches a method (and system and program product) in a data processing system for changing a user status in a messaging program (Paragraph [0009] lines 6 – 7 disclose transitioning a presence state of an instant messenger to a busy state), **the method comprising:**

identifying a number of current conversations open for a user in the messaging program (Paragraph [0072] lines 3 – 4 discloses detecting a computer system activity level and it is clarified in paragraph [0073] lines 18 – 19 that the activity level may include the number of simultaneous chat sessions a given user is participating in);

setting the user status to busy if the number of current conversations for the user equals a threshold (Paragraph [0075] lines 2 – 5 discloses transitioning the presence state corresponding to a given user to a busy state in response to determining that the detected activity level exceeds the corresponding activity threshold);

responsive to receiving a message while the user status is busy, saving the message without presenting the message (Paragraph [0102] lines 11 – 13 discloses the client being configured to queue the received operation without notifying the user if the presence state of the user is indicative of a busy user state);

responsive to the user status changing to available, presenting a save message
(Paragraph [0104] lines 9 – 11 discloses that once the user transitions to an online presence state, queued operations may be delivered); **and**

responsive to a sender of the save message being unavailable, presenting an indication that the sender is unavailable (Paragraph [0103] lines 6 – 11 disclose that when a second user attempts to initiate a chat with a user having an engaged presence state, the chat operation will be queued at the busy user's IM client. The IM client will then send the second user a notification that the intended target of the chat operation is busy. Then in paragraph [0123] lines 4 – 6 it discloses the client being configured to initiate the chat operation stored in queue associated with an online presence state in response to detecting a transition to an online presence state. Given that both users would be using the same IM client, when user A transitions to an online presence state his client would automatically initiate a chat operation with user B who was in the queue. The system would then inform user A that user B was busy if user B had an engaged presence state. This is because as shown above whenever a user attempts to initiate a chat with a user having an engaged presence state, the operation would be queued and the initial sender will be notified that his intended target is busy).

As to Claims 2, 12, and 18, Shah teaches the method (and system and program product) of claim 1 further comprising:

setting the user status to available if the user status is currently set to busy and if the number of current conversations is less than the threshold (Paragraph [0075] lines 6 – 9 discloses determining whether the detected activity level does not exceed the corresponding activity threshold and to transition the presence state to an online state in response to this determination).

As to Claims 3, 13, and 19, Shah teaches the method (and system and program product) of claim 1, wherein the threshold is set by a user input (Paragraph [0074] lines 11 - 12 discloses that the various activity thresholds and corresponding threshold times may be parameters configurable by a user).

As to Claims 4, 14, and 20, Shah teaches the method (and system and program product) of claim 1, wherein the messaging program is an instant messaging program (Paragraph [0009] lines 1 – 3 discloses a method and system for busy presence state detection in an instant messenger system).

As to Claims 5, 15, and 21, Shah teaches the method (and system and program product) of claim 1, wherein the identifying step is initiated when a user input creating a new conversation is received (Paragraph [0078] lines 1 – 3 discloses that in response to detecting computer system activity, the instant messaging system may determine whether the detected activity level exceeds an activity threshold. Activity has

been shown above to include the number of simultaneous chat sessions a given user is participating in. It is read that creating a new conversation causes system activity (because a new conversation changes the number of simultaneous conversations) and system activity causes the threshold to be measured. Thus the reference has taught the same thing as the applicant's invention).

As to Claims 6, 16, and 22, Shah teaches the method (and system and program product) of claim 1, wherein the identifying step is initiated when a user input terminating a conversation is received (Paragraph [0078] lines 1 – 3 discloses that in response to detecting computer system activity, the instant messaging system may determine whether the detected activity level exceeds an activity threshold. Activity has been shown above to include the number of simultaneous chat sessions a given user is participating in. It is read that terminating a conversation causes system activity (because the loss of a conversation changes the number of simultaneous conversations) and system activity causes the threshold to be measured. Thus the reference has taught the same thing as the applicant's invention).

As to Claim 8, Shah teaches the method of claim 1, wherein the saved message is selected from a set of saved messages based on a first-in-first-out basis (Paragraph [0104] lines 9 – 11 discloses that once the user transitions to an online presence state, queued operations may be delivered, for example in the order they were queued.

Delivering the operations in the order in which they were queued is the same as a first-in-first-out basis).

As to Claim 9, Shah teaches the method of claim 8 further comprising:

initiating a new current conversation with the sender of the saved message

(Paragraph [0123] lines 4 – 6 discloses the client being configured to initiate the chat operation stored in queue associated with an online presence state in response to detecting a transition to an online presence state).

As to Claim 10, Shah teaches the method of claim 9 further comprising:

continuing to present additional saved messages and initiating new conversations as long as the user status is available (Paragraph [0104] lines 9 – 11 discloses that once the user transitions to an online presence state, queued operations may be delivered, for example in the order they were queued. This is read to mean that the queue will supply saved operations as long as the user is available. This is because as the queue supplies operations the activity level will be checked, and as the level is checked a determination will be made whether or not the status should be changed. If the status is changed to busy, queued messages will stop being sent and the queue will begin queuing incoming messages again. However, if the status is not changed to busy the queue will continue to deliver operations in the order they were queued).

As to Claim 23, Shah teaches a data processing system comprising:

a bus system (Paragraph [0059] lines 1 – 2 discloses an I/O subsystem that may be configured to interface various peripheral devices to a processor);

a memory connected to the bus system, wherein the memory includes a set of instructions (Paragraph [0058] lines 1 – 2 discloses memory may be configured to store program instructions); **and**

a processing unit connected to the bus system (Paragraph [0059] lines 1 – 2 discloses an I/O subsystem that may be configured to interface various peripheral devices to a processor), **wherein the processing unit executes the set of instructions to identify a number of current conversations open for a user in a messaging program; set a user status to busy if the number of current conversations for the user equals a threshold; save a message without presenting the message in response to receiving the message while the user status is busy; present a saved message in response to the user status changing to available; and present an indication that a sender of the saved message is unavailable in response to the sender being unavailable** (Paragraph [0058] lines 15 – 18 discloses that memory includes software code, which may include program instructions and data corresponding to one or more of the software modules of the IM system. Then paragraph [0057] lines 1 – 2 disclose that the processor may be

configured to execute program instructions stored in memory. Thus this covers the claim because the memory holds the instructions for the IM system, which contains the identifying step, the setting step, the saving step, the presenting a saved message step and the presenting an indication step and then the processor executes program instructions from memory).

Action is Final

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN S. MAI whose telephone number is (571)270-5001. The examiner can normally be reached on Monday through Friday 7:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Taghi Arani can be reached on 571-272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KSM
/Taghi T. Arani/
Supervisory Patent Examiner, Art Unit 4121
2/5/2008